

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

RENEE HADDOCK

(b) County of Residence of First Listed Plaintiff Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Amy L. Bennecoff Ginsburg, Esq., Kimmel & Silverman, PC,
30 E. Butler Ave., Ambler, PA, 19002, (215)540-8888

DEFENDANTS

MIDLAND CREDIT MANAGEMENT

County of Residence of First Listed Defendant Norfolk

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692k et seq

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/05/2016

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

RENEE HADDOCK	:	CIVIL ACTION
	:	
v.	:	
	:	NO.
MIDLAND CREDIT MANAGEMENT	:	

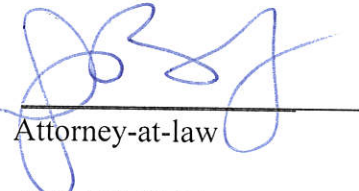
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

05/05/2016

Date


Attorney-at-law

Amy L. Bennecoff Ginsburg
Attorney for Plaintiff

215-540-8888

Telephone

215-540-8817

FAX Number

aginsburg@creditlaw.com

E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 941 Pratt Street, Philadelphia, PA 19124

Address of Defendant: 8875 Aero Drive, Suite 200, San Diego, CA 92123

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases — 15 U.S.C. §1692 *et seq.*
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, _____, counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 05/05/2016

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

202745

Attorney I.D. #

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/05/2016

Attorney-at-Law

202745

Attorney I.D. #

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
 EASTERN DISTRICT OF PENNSYLVANIA

3 **RENEE HADDOCK,**)
4)
5 Plaintiff) **Case No.:**
6 v.) **COMPLAINT AND DEMAND FOR**
 JURY TRIAL
7 **MIDLAND CREDIT**)
8 **MANAGEMENT, INC.,**) **(Unlawful Debt Collection Practices)**
9 Defendant)

10 **COMPLAINT**

11 RENEE HADDOCK (“Plaintiff”), by and through her attorneys, KIMMEL
12 & SILVERMAN, P.C., alleges the following against MIDLAND CREDIT
13 MANAGEMENT, INC. (“Defendant”):
14

15 **INTRODUCTION**

16 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices
17 Act (“FDCPA”), 15 U.S.C. §1692 *et seq.*
18

19 **JURISDICTION AND VENUE**

20 2. Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d),
21 which states that such actions may be brought and heard before “any appropriate
22 United States district court without regard to the amount in controversy,” and 28
23 U.S.C. §1331 grants this court original jurisdiction of all civil actions arising
24 under the laws of the United States.
25

3. Defendant conducts business in the Commonwealth of Pennsylvania, and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §1391 (b)(2).

PARTIES

5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. Defendant is a national debt collection company with its corporate headquarters located at 5775 Roscoe Court, San Diego, CA 92123.

8. Defendant collects, and attempts to collect, consumer debts incurred, or alleged to have been incurred, for personal, family or household purposes on behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692 a(6), and sought to collect a debt from Plaintiff.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all relevant times, Defendant was attempting to collect an alleged

1 consumer debt from Plaintiff, related to a T-Mobile cellular telephone debt.

2 12. Beginning on June 24, 2015, Defendant contacted Plaintiff by calling
3 her landline telephone in its attempts to collect a debt.

4 13. Defendant has placed telephone calls to Plaintiff from the phone
5 number (866) 580-4780. The undersigned has confirmed that this phone number
6 belongs to Defendant.
7

8 14. In early July 2015, Plaintiff spoke to Defendant's collectors and told
9 Defendant to stop calling her regarding the alleged debt.
10

11 15. Plaintiff also told Defendant that she would contact Defendant when
12 she could afford to make payments.

13 16. Defendant heard and acknowledged her request by responding that
14 they would "make a note of that in the file."
15

16 17. Once Defendant was told the calls were unwanted and to stop, there
17 was no lawful purpose to making further calls, nor was there any good faith
18 reason to place any further calls.
19

20 18. However, Defendant ignored Plaintiff's request to stop the calls and
21 continued to call her at least once per day until the week of December 20 through
22 December 23, 2015.

23 19. Furthermore, Defendant contacted Plaintiff's mother in July and
24 August 2015 in its attempts to locate Plaintiff and collect the alleged debt.
25

1 20. Plaintiff's mother told Defendant to stop calling her about the
2 debt but Defendant ignored her request and continued to call three to four more
3 times.

4 21. Defendant's communication with Plaintiff's mother caused great
5 embarrassment and emotional distress for Plaintiff.
6

7 22. During these telephone calls with Plaintiff, Defendant's collectors
8 made threats to Plaintiff.
9

10 23. Specifically, Defendant threatened to pursue legal action if Plaintiff
11 did not pay the alleged debt.

12 24. However, Defendant has not pursued legal action.

13 25. Based upon information and belief, Defendant did not intend to take
14 such actions but made this threat with the intent to scare and coerce payment
15 from Plaintiff.
16

17 26. Defendant's actions as described herein were made with the intent to
18 harass, upset, deceive, and coerce payment from Plaintiff.
19
20
21
22
23
24
25

COUNT I
DEFENDANT VIOLATED §1692b(3) OF THE FDCPA

27. A debt collector, in its communication with a person other than the consumer for the purpose of acquiring information about the consumer's place of residence, place of employment or phone numbers, violates §1692b(3) by communicating with any such person more than once without request to do so.

28. Here, Defendant contacted Plaintiff's mother more than once without her authorization or consent during the months of July and August 2015. Defendant continued to call Plaintiff's mother in violation of § 1692b(3) even after requesting that the calls stop.

COUNT II
DEFENDANT VIOLATED §1692c(b) OF THE FDCPA

29. A debt collector violates § 1692c(b) by communicating "with anyone except consumer, consumer's attorney, or credit bureau concerning the debt".

30. Defendant's conduct, as detailed in the preceding paragraphs, violated § 1692c(b) of the FDCPA by contacting Plaintiff's mother in an attempt to collect the debt.

COUNT III
DEFENDANT VIOLATED §1692d OF THE FDCPA

31. A debt collector violates §1692d of the FDCPA by engaging in conduct the natural consequence is to harass, oppress, or abuse any person in connection with the collection of a debt.

32. Defendant violated §1692d when it placed repeated and harassing telephone calls to Plaintiff..

COUNT IV
DEFENDANT VIOLATED §1692d(5) OF THE FDCPA

33. A debt collector violates §1692 (d)(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse or harass any person at the called number.

34. Defendant violated §1692 (d)(5) of the FDCPA when it continued to call Plaintiff on her landline telephone repeatedly after early July when Plaintiff told Defendant to stop calling her, with the intent to annoy, abuse or harass her.

COUNT V
DEFENDANT VIOLATED §1692e(5) OF THE FDCPA

32. A debt collector violates § 1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or is not intended to be taken.

1 33. Defendant violated § 1692e(5) by threatening to file a lawsuit or take
2 legal action against Plaintiff if the debt was not paid. Upon information and belief,
3 Defendant made such a threat without intending that any legal action be taken.
4

5
6 **COUNT VI**
7 **DEFENDANT VIOLATED §1692e OF THE FDCPA**

8 34. A debt collector violates § 1692e of the FDCPA by using false,
9 deceptive, or misleading representations or means in connection with the
10 collection of a debt.

11 35. Defendant violated §1692e by threatening to file a lawsuit or take
12 legal action against Plaintiff if the debt was not paid. Upon information and belief,
13 Defendant made such a threat without intending that any legal action be taken.
14

15 **COUNT VII**
16 **DEFENDANT VIOLATED §1692e(10) OF THE FDCPA**

17 36. A debt collector violates § 1692e(10) of the FDCPA by using false,
18 deceptive, or misleading representations or means in connection with the
19 collection of a debt.
20

21 37. Defendant violated §1692e(10) by threatening to file a lawsuit or
22 take legal action against Plaintiff if the debt was not paid. Upon information and
23 belief, Defendant made such a threat without intending that any legal action be
24 taken.
25

1 WHEREFORE, Plaintiff, RENEE HADDOCK, respectfully prays for
2 judgment as follows:

- 3 a. All actual damages suffered by Plaintiff pursuant to 15 U.S.C.
4 §1692 (k)(a)(1);
5
6 b. Statutory damages of \$1,000.00 for the violation of the
7 FDCPA
8 pursuant to 15 U.S.C. §1692 (k)(a)(2)(A);
9
10 c. All reasonable attorneys' fees, witness fees, court costs and
11 other
12 litigation expenses incurred by Plaintiff pursuant to 15 U.S.C.
13 §1693 (k)(a)(3); and
14
15 d. Any other relief deemed appropriate by this Honorable Court.

16
17 **DEMAND FOR JURY TRIAL**

18 PLEASE TAKE NOTICE that Plaintiff, RENEE HADDOCK, demands a
19 jury trial in this case.
20
21
22
23
24
25

Respectfully submitted,

Dated: May 5, 2016

By: 

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